

City of Las Vegas

AGENDA MEMO

PLANNING COMMISSION MEETING DATE: JANUARY 8, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-32152 - APPLICANT/OWNER: MERITAGE HOMES OF NEVADA, INC.

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. This approval shall be void two years from the date of final approval, unless approval of a final inspection has been granted for either a single-family dwelling with the patio option or the patio cover. An Extension of Time may be filed for consideration by the City of Las Vegas.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow five-foot rear yard setbacks where ten feet is the minimum required on 85 lots within the Northern Terrace single-family residential development at Providence. This Variance request is to accommodate an optional patio cover that a prospective home buyer may opt for when purchasing a home within this development. Without the patio cover, the homes meet the required setbacks. This request represents a 50 percent deviation from the development standard.

Staff recommends denial of this request as it is a self-imposed hardship that could have been alleviated through alternative site design.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
02/06/02	The City Council approved a petition to Annex [A-0026-01(A)] property generally located on the south side of Grand Teton Road, approximately 1,000 feet west of Hualapai Way. The annexation was in effect as of 02/15/02. The Planning Commission recommended approval.
06/19/02	The City Council approved a petition to Annex [A-0027-01(A)] property generally located on the south side of Grand Teton Road, approximately 340 feet west of Larry McBryde. The annexation was in effect as of 06/28/02. The Planning Commission recommended approval.
02/05/03	The City Council approved a petition to Annex (A-0035-02) parcels of land generally located adjacent to the southeast corner of Grand Teton Drive and Puli Road containing approximately 1,187 acres. The annexation was in effect as of 02/14/03. The Planning Commission recommended approval.
04/16/03	The City Council approved a request for a Rezoning (ZON-1520) from U (Undeveloped) [PCD (Planned Community Development) General Plan Designation] to PD (Planned Development) Zone on 297.50 acres, and to Establish a Master Plan for the Cliff's Edge Development adjacent to the south side of Grand Teton Drive, between Hualapai Way and Puli Road. The Planning Commission recommended approval.
06/18/03	The City Council approved a petition to Vacate (VAC-2230) U.S. Government Patent Reservations generally located west of Hualapai Way, between Grand Teton Drive and Deer Springs Way. The Planning Commission recommended approval. The Vacation was recorded on 06/15/04.

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07/16/03	The City Council approved a request for a Rezoning (ZON-2184) from U (Undeveloped) [PCD (Planned Community Development) General Plan Designation] to PD (Planned Development) on 704 acres adjacent to the south side of Grand Teton Drive between Hualapai Way and Puli Road. The Planning Commission recommended approval.
08/06/03	The City Council approved a petition to Vacate (VAC-2412) U.S. Government Patent Reservations generally located west of Hualapai Way, between Grand Teton Drive and Centennial Parkway. The Planning Commission recommended approval. The Vacation was recorded on 06/15/04.
02/18/04	The City Council approved a request for a Rezoning (ZON-3241) from U (Undeveloped) [PCD (Planned Community Development) General Plan Designation] to PD (Planned Development) on 90 acres generally located between Grand Teton Drive, centennial Parkway, Hualapai Way, and the Corporate City Limits. The Planning Commission recommended approval.
05/05/04	The City Council approved a request for a Major Modification (MOD-3955) to the Cliff's Edge Master Development Plan to change land use designations from Village Commercial to Medium Low Density Residential and Medium Density Residential; from Medium Density Residential to Residential Small Lot; and from Medium Low Density Residential to Pump & Reservoir; to modify section 6.2.3 regarding retaining walls; and to modify Table 1 (Section 2.2) to reflect changes to the land use categories on 40 acres generally located adjacent to the south side of Grand Teton Drive, between Hualapai Way and Puli Road. The Planning Commission recommended approval.
08/19/04	A Final Map (FMP-4358) for the Cliff's Edge Parent Map on 922.96 acres adjacent to the south side of Grand Teton Drive, between Hualapai Way and Puli Road was recorded.
09/15/04	The City Council approved a petition to Vacate (VAC-4707) U.S. Government Patent Easements generally located east of Puli Drive between Grand Teton Drive and Farm Road. The Planning Commission recommended approval. This Vacation has not been recorded.
09/23/04	The Planning Commission approved (final action) a request for a Tentative Map (TMP-4706) for a 930-lot single-family residential subdivision on 148 acres adjacent to the northeast corner of Shaumber Road and Farm Road.

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08/03/05	The City Council approved a request for a Major Modification (MOD-6279) to the Cliff's Edge Master Development Plan to change land use designations from ML (Medium Low Density Residential) to L (Low Density Residential) and RSL (Residential Small Lot); from L (Low Density Residential) to ML (Medium Low Density Residential); and from RSL (Residential Small Lot) to ML (Medium Low Density Residential); and to modify the following sections of the Master Development Plan: 2.2, 2.3.5, 2.3.6 and 2.3.7; to modify or add to the design guidelines as follows: Section 3.1.1, 3.2.3B, 5.10, 5.10.1, 6.2.1, 6.2.2, 6.2.3, 7 and exhibits 2, 7a,7b, 8a, 14a, 14b, 14c, 15 and 17 on 1,156 acres generally located adjacent to the south side of Grand Teton Drive, between Hualapai Way and Puli Road. The Planning Commission recommended approval.
11/16/05	The City Council approved a request for a Major Modification (MOD-9174) to the Cliff's Edge Master Development Plan and Design Guidelines to establish standards for rear-loaded residential small lot housing products and to add section 3.2.5B to the design guidelines on 1,156 acres generally located adjacent to the south side of Grand Teton Drive, between Hualapai Way and Puli Road; and General Plan Amendment (GPA-9137) to amend portions of the Cliff's Edge Master Development Plan from PR-OS (Parks/Recreation/Open Space) and PF (Public Facilities) to PCD (Planned Community Development) on property generally located between Puli Road and Hualapai Way, north of I-215 and south of Grand Teton Drive. The Planning Commission recommended approval of both items.
05/16/06	A Final Map (FMP-8952) for a 26-lot single-family residential subdivision on 3.71 acres adjacent to the northeast corner of Shaumber Road and Farm Road was recorded.
07/25/06	A Final Map (FMP-9610) for a 134-lot single-family residential subdivision on 15.05 acres adjacent to the east side of Shaumber Road, north of Farm Road was recorded.
07/26/06	A Final Map (FMP-9867) for a 130-lot single-family residential subdivision on 18.49 acres adjacent to the southwest corner of Egan Crest Drive and Grand Teton Drive was recorded.
08/29/06	A Final Map (FMP-9609) for a 155-lot single-family residential subdivision on 19.24 acres adjacent to the northeast corner of Shaumber Road and Farm Road was recorded.
08/30/06	A Final Map (FMP-9998) for a 48-lot single-family residential subdivision on 7.35 acres south of Grand Teton Drive, between Shaumber Road and Egan Crest Drive was recorded.
09/01/06	A Final Map (FMP-9866) for a 154-lot single-family residential subdivision on 16.90 acres adjacent to the southeast corner of Shaumber Road and Grand Teton Drive was recorded.
09/11/06	A Final Map (FMP-9611) for a 125-lot single-family residential subdivision on 21.54 acres adjacent to the northwest corner of Egan Crest Drive and Farm Road was recorded.

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09/12/06	A Final Map (FMP-9869) for an 86-lot single-family residential subdivision on 15.98 acres adjacent to the west side of Egan Crest Drive, north of Farm Road was recorded.
<i>Related Building Permits/Business Licenses</i>	
11/01/06	A building permit (#06006721) was issued for on-site improvements at 7610 Silver Run Peak. The permit expired on 05/05/07.
11/01/06	A building permit (#06006718) was issued for recreational facility building "A" at 7610 Silver Run Peak. The permit was finalized on 09/05/07.
11/01/06	A building permit (#06006719) was issued for pool building "B" at 7610 Silver Run Peak. The permit was finalized on 08/28/07.
11/01/06	A building permit (#06006720) was issued for vocational building "C" at 7610 Silver Run Peak. The permit was finalized on 08/31/07.
11/27/06	A building permit (#06007102) was issued for street lighting at 10616 Forum Peak. The permit expired on 09/29/07.
12/08/06	A building permit (#06007285) was issued for onsite water and sewer at 10530 Crescent Mountain Street. The permit expired on 07/21/07.
12/13/06	A building permit (#06007350) was issued for street lighting at 7806 Crescent Mountain Street. The permit expired on 07/14/07.
02/26/07	A building permit (#07000702) was issued for site electrical at 7610 Silver Run Peak. The permit expired on 02/16/08.
<i>Pre-Application Meeting</i>	
11/18/08	A pre-application meeting was held where the submittal requirements for a rear-yard Variance on multiple lots was discussed.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was not required, nor was one held.	
<i>Field Check</i>	
12/04/08	A routine field check by staff revealed a planned residential community currently under construction. The community center and pool area have been completed.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	6.49 acres

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Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residences	PCD (Planned Community Development)	PD (Planned Development) Zone [L (Low Density Residential) Cliff's Edge Land Use Designation] & PD (Planned Development) Zone [ML (Medium-Low Density Residential) Cliff's Edge Land Use Designation]
North	Vacant Land	TND (Traditional Neighborhood Development)	T-D (Traditional Development)
South	Vacant Land	PCD (Planned Community Development)	PD (Planned Development) Zone [PF (Public Facility) Cliff's Edge Land Use Designation] & PD (Planned Development) Zone [RSL (Residential Small Lot) Cliff's Edge Land Use Designation]
East	Single-Family Residences	PCD (Planned Community Development)	PD (Planned Development) Zone [M (Medium Density Residential) Cliff's Edge Land Use Designation] & PD (Planned Development) Zone [ML (Medium-Low Density Residential) Cliff's Edge Land Use Designation] & PD (Planned Development) Zone [RSL (Residential Small Lot) Cliff's Edge Land Use Designation]

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West	Single-Family Residences	PCD (Planned Community Development)	PD (Planned Development) Zone [ML (Medium-Low Density Residential) Cliff's Edge Land Use Designation]
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<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan	X		Y
Cliff's Edge Master Plan Area	X		Y
Centennial Hills Sector Plan	X		Y
Northwest Open Space Plan	X		Y
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts	X		Y
PD Planned Development District – Cliff's Edge (Providence)	X		Y
Trails*	X		Y
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

*In the case of this residential subdivision (Northern Terrace), there is a requirement for a Multi-Use Transportation Trail along the south side of Grand Teton Drive, along the northern boundary of the subdivision. This trail has been constructed by the master developer in accordance with the Cliff's Edge parent Final Map standards.

DEVELOPMENT STANDARDS

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Setbacks			
• Front	18 Feet	18 Feet	Y
• Side	5 Feet	5 Feet	Y
• Corner	N/A	N/A	N/A
• Rear	10 Feet	5 Feet*	N*

*The applicant has requested a Variance to allow five-foot rear-yard setbacks where 10 feet is required.

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ANALYSIS

This is a request for a Variance to allow five-foot rear yard setbacks where ten feet is the minimum required on 85 lots within the Northern Terrace single-family residential development at Providence. The applicant has requested the Variance in order to accommodate an optional rear patio cover that a prospective home buyer may opt for when purchasing a home. Without the rear patio cover, the home meets the minimum rear yard setback requirements. The 85 lots affected by this optional patio cover will require a maximum reduction of the rear yard setback to five feet. This five-foot rear yard setback represents a maximum 50 percent deviation from the development standard.

The applicant, Meritage Homes of Nevada, Inc. received approval on 11/20/08 from the Providence Design Review Committee to waive Section 3.2.5 of the Cliff's Edge Design Guidelines to allow five-foot rear yard setbacks on the subject sites in order to accommodate a rear yard patio cover.

•Zoning

The subject sites are located within the Planned Community of Cliff's Edge – Providence. Northern Terrace at Providence has two land use designations; the eastern portion of the development is designated PD (Planned Development) [L (Low Density Residential) Cliff's Edge Land Use Designation], and the western portion of the development is designated PD (Planned Development) [ML (Medium-Low Density Residential) Cliff's Edge Land Use Designation].

•Low Density Residential

The Low Density Residential category provides for the development of up to 5.5 dwelling units per gross acre. This land use category allows for lower density single-family product types with a maximum of two stories. Allowable uses also include residential daycare up to six children.

•Medium-Low Density Residential

The Medium-Low Density Residential category provides for the development of up to 8 dwelling units per gross acre. The land use category allows for medium density detached or attached single-family product types including, but not limited to, duplexes, compact lots, cluster and zero lot line developments. Buildings in this category should not exceed two stories in height. Allowable uses also include residential daycare up to six children.

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FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by offering an optional patio cover on a lot not large enough to accommodate the patio cover. Alternative site design would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 13

SENATE DISTRICT 9

NOTICES MAILED 152

APPROVALS 0

PROTESTS 0